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TOWN BOARD COUNTY OF ALBANY

TOWN OF COLONIE

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AGENDA SESSION

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THE STENOGRAPHIC MINUTES of the above entitled matter by NANCY L. STRANG, a Shorthand Reporter commencing on February 27, 2020 at 6:00 p.m. at Memorial Town Hall, 534 New Loudon Road, Latham, New York

BOARD MEMBERS:

- PAULA MAHAN, SUPERVISOR
- LINDA MURPHY, DEPUTY SUPERVISOR
- MELISSA JEFFERS-VONDOLLEN
- RICK FIELD
- JILL PENN

ALSO PRESENT:

- Michael C. Magguilli, Esq, Town Attorney
- Julie Gansle, Town Clerk
- P. Christopher Kelsey, Acting Comptroller
- Chris Kostyun, Chief, EMS
- Ryan Bailey, Esq., Bailey Johnson and Peck

1 MR. MAGGUILLI: David Green and Danielle Futia  
2 are absent this evening.

3 Resolution 134 a is permanently appointing  
4 Maxwell Bird to Water Maintenance Worker, Grade 8 in  
5 the DPW. He's the filling the vacancy created by John  
6 McDuff when John left; \$24.83 an hour. He will start  
7 tomorrow.

8 Resolution 134B is appointing Alexander Boyd  
9 as our Highway Maintenance Worker, Grade 8. He is  
10 filling Stephen Causey's position. It's \$19.86 an hour  
11 and he will start on March 7.

12 Resolution 134C is provisionally appointing  
13 William Shipley. He's going to be a Vehicle  
14 Maintenance Supervisor, Grade 15 earning \$73,785  
15 starting tomorrow. He is filling the vacancy of Mike  
16 Ruggiero.

17 Resolution 134D is permanently appointing  
18 Christopher Goes as a part-time EMT. He will be  
19 earning \$19.61 an hour starting March 2. He is taking  
20 Sean Higgins' place.

21 Resolution 134E is permanently appointing  
22 Andrew Biance as an EMT. Andrew is taking the place of  
23 John Schultz who resigned; \$19.61 an hour starting  
24 March 2.

25 Resolution 134F is permanently appointing

1 Natalie Buchanan as an EMT part-time; \$19.61 an hour  
2 starting March 2 and she is replacing Joe Gerace.

3 Finally we have a Resolution permanently  
4 appointing Ashley King as a part-time EMT; \$19.61 an  
5 hour starting March 2 and she is filling Kyle  
6 Molesky's place.

7 Chris, is there anything else you'd like to  
8 add to that?

9 MR. KOSTYN: No, it's just back fills to  
10 eliminate or reduce our overtime and have more folks  
11 available. We're not adding bodies to the street.

12 MR. MAGGUILLI: Resolution 135 - back on  
13 February 6 we passed a Resolution calling for a public  
14 hearing tonight. This is on the 168th extension of the  
15 Latham Water District. This is \$12,350 which will be  
16 paid through tax assessments on the lots.

17 Mr. Bailey is here to speak on the public  
18 hearing.

19 Anything you would like to add?

20 MR. BAILEY: No.

21 MR. MAGGUILLI: Resolution 136 is calling a  
22 public hearing for our March 26 Board meeting at 7  
23 o'clock. The owner of 21 Green Mountain Drive wants to  
24 build a sewer improvement project extending municipal  
25 sewer service to 21 Green Mountain Drive. The cost is

1 \$17,872 that will be paid for directly by the developer.

2 Resolution 137 is the companion escrow  
3 Resolution authorizing Paula to sign the escrow  
4 agreement to ensure payment and compliance by the  
5 owner.

6 Resolution 138 authorizes payment from our  
7 insurance reserve fund of \$4,100. This is to Clough  
8 Harbor and Associates on the Fusco case. We have  
9 designated Clough as our expert. This will probably go  
10 to trial some time in May or may be early June. This  
11 is the slippery slope case where there claiming that  
12 our Highway Maintenance Workers destabilized the slope  
13 behind Mr. Fusco's property. We have been litigating  
14 this for the last two years and there is a demand of  
15 about \$2 million. We naturally rejected that. We have  
16 to have an expert. This is probably the first of a  
17 number of bills on this. We have no choice. We have to  
18 have an expert.

19 Resolution 139 is referring to the Planning  
20 Board the review and to make a recommendation to the  
21 Town for an open development area located at 8t  
22 Everett Road Extension. This is the property behind  
23 the Zaloga Post.

24 You need an open development area whenever a  
25 parcel of land that a person seeks to develop does not

1 have direct access to a public road.

2 The way this lot is set up - I don't know why  
3 they did it this way, but looking at the picture of it  
4 you would think it would have access on four sides.  
5 The lot line actually ends about 20 feet in from the  
6 road. I've never seen anything like it before, but you  
7 need a minimum of 80 feet of road frontage. If you  
8 don't have it, like this lot does not, you need  
9 approval from the Town Board to build. That's what  
10 this is about.

11 Resolution 140 is under 219 a of the General  
12 Municipal Law. As you can see, I passed around the  
13 blue sheet. This is for the Fuller Road Fire  
14 Department. This certifying which of their volunteers  
15 qualify for service award in 2019.

16 Resolution 141 is authorizing Paula to sign  
17 an agreement with Joe Mastroianni. This is a four-year  
18 agreement and this is for our Section 8 housing  
19 assistance voucher program. We have been contracting  
20 with Mr. Mastroianni for as long as I've been here.

21 Resolution 142 is referring to the Planning  
22 Board a proposed amendment to the Beltrone Living  
23 Center planned development district. What they're  
24 looking to do is merge two lots; 6 Winners Circle and  
25 6A Winners Circle. Because it is a planned development

1 district, they need Town Board approval. We have to  
2 amend the Local Law that creates the district. I  
3 assume this is because they intend to do more  
4 development on the property sometime in the future.

5 Resolution 143 is authorizing Paula to enter  
6 into an agreement with the American Red Cross. This is  
7 for the 2020 Learn to Swim Program. This is a  
8 long-standing program we have had with the Town. In  
9 prior years we've paid \$200 and that only covered 75  
10 participants. This year we are paying \$300 that will  
11 cover up to 500 participants. I guess the program has  
12 become very popular. So, we negotiated the new  
13 agreement.

14 Resolution 144 is a maintenance agreement  
15 with Hewlett-Packard. This is for the CAD RMS servers  
16 at the Police Department. That's for maintenance from  
17 February 1, 2020 to July 31, 2020. The total cost is  
18 \$2,752.80.

19 Next we have Resolution 145 which is a  
20 contract service agreement with Troy Belting. By  
21 Resolution 533 that we adopted on December 19 of last  
22 year, we authorized expenditures not to exceed \$5,000  
23 with Troy Belting. Today, we have used approximately  
24 80% of that \$5,000. So, Pure Waters would like to be  
25 authorized an additional \$5,000 for future events.

1                   Resolution 146 authorizes Doug to advertise  
2                   for bids for wet well cleaning for Pure Waters.

3                   Resolution 147 is change order 1 with our  
4                   contract with Gross Electric in connection with the  
5                   Mohawk View Water Treatment Plant Low Lift Pump  
6                   Station. The original contract amount totaled  
7                   \$276,000. It turns out that there are certain ethernet  
8                   switches and ATS duplicators that were needed. So,  
9                   this is a deduct from \$1,340.

10                  Resolution 148 is a contract service  
11                  agreement with Kamco of New England. This includes  
12                  labor and materials to replace two metal doors at the  
13                  low lift pump station. The cost will not exceed  
14                  \$10,000.

15                  Resolution 149 is to approve amendment number  
16                  1 with our engineering agreement with Clough. This is  
17                  for the sand/salt shed building at Public Ops. The  
18                  additional work which includes construction and  
19                  inspection work and management services shall not  
20                  exceed \$45,000.

21                  Resolution 150 is declaring an emergency with  
22                  respect to repair and purchase of parts for our fire  
23                  sprinkler suppression system. We're going to have to  
24                  add sales tax to this. What this will cover is to  
25                  mechanics to come in on a Saturday and work up to

1 eight hours each day to replace the defective  
2 sprinkler valve.

3 MR. KELSEY: Mike, why would we add sales tax  
4 to that?

5 MR. MAGGUILLI: The 776 figure would include  
6 sales tax, if any.

7 MR. KELSEY: But we wouldn't pay sales tax,  
8 though. We don't pay sales tax.

9 MR. MAGGUILLI: Good, I'm glad. I don't know  
10 why they put that in there, but they did. Maybe it's  
11 something about the valve.

12 Resolution 151 is requiring the Planning  
13 Board to review and consider the proposed rezoning of  
14 parcel of land located at 44 Waterford Avenue from  
15 single-family residential to multi-family residential.

16 The parcel at 44 Waterford Avenue is owned by  
17 Rich Rosetti, Jr. In his letter requesting the zone  
18 change, he states that everything around that parcel  
19 is multi-family; town houses and the like. He wants to  
20 build town houses here, but under our Code townhouses  
21 are considered multi-family units. They share a party  
22 wall, so they should. He disputes that thinks it  
23 should be single-family.

24 I did not want to get into it with him. Just  
25 so you know, he has already been to the Zoning Board

1 looking for a use variance. He can't get a use  
2 variance because it's a self-created hardship. He knew  
3 it was single-family when he bought the lot and under  
4 the statute, self-created hardship automatically  
5 disqualifies anyone from getting a use variance.  
6 Therefore, this is Plan B, apparently, to try to  
7 convince us that since everything else is  
8 multi-family, why isn't this one?

9 SUPERVISOR MAHAN: Ron Monfil looked up the  
10 plot of land and then what was surrounding it. I think  
11 they call the townhouses, but they are mostly just like  
12 converted into -

13 MR. MAGGUILLI: Apartments.

14 SUPERVISOR MAHAN: Duplexes or something like  
15 that and not really townhouses.

16 MR. MAGGUILLI: He has interesting  
17 interpretations of many our definitions in many of our  
18 laws. This is just referring it to Planning.

19 SUPERVISOR MAHAN: Well, it said it in the  
20 letter. I believe it said in the letter that they were  
21 all surrounded by townhouses. I couldn't remember  
22 townhouses there other than if you got into the  
23 Woodlands. I think they may just be homes that were  
24 changed into duplexes.

25 MR. MAGGUILLI: When he states is the property

1 consists of approximately 2.35 acres of land located on  
2 Waterford Avenue East immediately to the east of the  
3 Woodland Apartments. The property is currently vacant  
4 land and zoned SFR single-family and does not permit  
5 more than one townhome on a parcel. The subject parcel  
6 is located in the boundary line between SFR and a  
7 multi-family residential district. Then, he includes a  
8 map and the like.

9 The Planning Board will have to conduct  
10 public hearings on this before they report so we will  
11 have a better idea. You always go to look anyway.

12 MS. MURPHY: So, this is just giving us the  
13 information to go to the Planning Board.

14 MR. MAGGUILLI: That is correct. You don't have  
15 to grant it. We typically do.

16 SUPERVISOR MAHAN: They will review it and then  
17 give us a recommendation. I think we need to take a look  
18 at what's around the property.

19 MR. MAGGUILLI: That's all I've got.

20 One thing I thought that I should bring to  
21 your attention since it affects all Town Board members  
22 is that on Friday, February 21 I received a FOIL  
23 request from Professor Kevin Bronner. He requests the  
24 2018 statement of financial disclosure to the Town of  
25 Colonie Board of Ethics filed by every member of the

1 Town Board, every member of the Planning Board, Town  
2 Attorney Michael Magguilli, PED director Joseph  
3 LaCivita an Operations Director Jack Cunningham which  
4 were required to be filed on or before January 31,  
5 2019. He also is requesting the 2019 statements of  
6 financial disclosure filed by all of us which were  
7 required to be filed on or before January 31, 2020.  
8 That's just so you know. If anybody have any questions  
9 about that, it's public. He is entitled to it.

10 We are backed up to a fare thee well on our  
11 FOIL requests. As you know, I'm down one attorney with  
12 Allegra going to the state. I miss her greatly. With  
13 the computer issues that we had, we don't have access  
14 to our old emails. The system is coming back slowly,  
15 but when we get a FOIL request, it asked for any and  
16 all which typically they do. It would include emails.  
17 Right now, nobody has access except Lisa, I suppose.  
18 So, we are going to be delayed.

19 What I have instructed Susan to do is to tell  
20 - - when you get a FOIL request, we must respond  
21 within five days of receiving a request to give an  
22 estimate of when we believe we can comply with the  
23 request. What I have told Susan to do, at least  
24 temporarily, is to advise people look, it's going to  
25 be at least two months. We are going to handle them in

1 the order that they came in to be fair. If we can  
2 respond to them sooner - - like, this request I think  
3 we will be able to because we don't need to go into  
4 the computer. We can just make copies of your  
5 financial disclosure statements. When this comes up,  
6 we should be able to get it right out. I thought you  
7 should know.

8 SUPERVISOR MAHAN: In case you don't know,  
9 Kevin was a former Town Board Member.

10 MS. MURPHY: At what university is he a  
11 professor?

12 MR. MAGGUILLI: University of Albany, I  
13 believe. A professor of public administration. If you  
14 remember, he he wrote what they call the Bronner Report  
15 back in 2007 or 2008 that tried to justify using Town  
16 equipment, personnel in materials to pave the West  
17 Albany Rod and Gun Club.

18 SUPERVISOR MAHAN: That's what he was claiming,  
19 but the State Comptroller did a review of that and it  
20 was illegal to do what was done. You can't work on  
21 private property. That's the other side.

22 MS. MURPHY: He has a right to ask for  
23 financial information?

24 MR. MAGGUILLI: Yes.

25 MS. MURPHY: I would think that would be more

1 private than someone just asking for it.

2 MR. MAGGUILLI: A lot of it will be redacted.  
3 Like, they're not entitled to your private phone  
4 numbers, Social Security numbers, your home address.

5 MS. MURPHY: Yes, but they have every bit of  
6 your financial information.

7 SUPERVISOR MAHAN: He FOILS frequently. He does  
8 write a lot of thing about the budget money and things  
9 like that. I have invited him in many many times to come  
10 and go over the financials. He was actually the liaison  
11 to the Comptroller when the Town was basically bankrupt.  
12 I invited him to look at everything.

13 MR. MAGGUILLI: Susan is backed up to a fare  
14 thee well. She gets these huge FOIL requests from the  
15 Save group repeatedly asking for every and all - - which  
16 is fine. They are entitled to it. When they do it and  
17 then let it sit for a couple of months before they come  
18 and pick it up, that kind of fries my cookies.

19 SUPERVISOR MAHAN: Melissa and I were at the  
20 Planning Board meeting about the Hoffman project and it  
21 did get approval. It's been out there for a while.

22 We met with Amy McCain and Stephen. They came  
23 in during the afternoon. They live on Homestead which  
24 is a through-street. It's a pretty long  
25 through-street. Actually, Joe Grasso and Sean Maguire,

1 Pete Stuto and everyone came so that they could get a  
2 more clear picture. We had a good meeting.

3 Actually, they brought up some real good  
4 suggestions. We don't know what the end result will  
5 be, but we are going to go to the state. Jack is going  
6 to call the state to see and look into the right hand  
7 turn only again on Homestead and Route 9. That's the  
8 way it was. With CVS coming out, if somebody tries to  
9 take a left out of CVS and somebody tries to take a  
10 left out of - - I don't remember, but I thought it one  
11 time there was a traffic signal on Homestead but I  
12 could be wrong.

13 MR. MAGGUILLI: The intersection by the bank?

14 No.

15 SUPERVISOR MAHAN: A long time ago. I could be  
16 thinking about something else. It's a block by where the  
17 Newton Plaza intersection is. They are hard to enforce,  
18 but people get used to it - - it could save an accident.

19 Their suggestion was for part of the public  
20 benefit instead of going on the west side all the way  
21 with the sidewalk, if it's possible - we have to look  
22 at the infrastructure in the utilities and everything  
23 that is there to do it on the east side; from  
24 Homestead to the traffic signal or possibly Stewart's  
25 because if anyone is going to walk, that would make it

1 much easier to cross the street. This is a traffic  
2 signal by the Schuyler properties. That's where the  
3 traffic signal is. That was one suggestion.

4 The other one was to take a look at the  
5 intersection the comes onto Homestead and Fiddlers,  
6 but also Comly comes in there. It's Fiddlers,  
7 Homestead and Comly.

8 MR. MAGGUILLI: Is that where they want the  
9 three-way stop sign?

10 SUPERVISOR MAHAN: They all come up that area  
11 there. It's like an old intersection that maybe needs  
12 something there to slow people down. I don't know if you  
13 remember this, Jack, but last year they put in a three  
14 way stop down by Skyline.

15 MR. CUNNINGHAM: I don't think that's correct.

16 SUPERVISOR MAHAN: I don't remember anyone  
17 talking about that. I will have to take a ride by and  
18 see. They were saying we don't know why they put them  
19 there.

20 MR. MAGGUILLI: We are limited as to what signs  
21 we can put up including stop signs by the New York State  
22 Uniform Manual of Traffic Control Devices. That's a big  
23 thick book with pictures. We can't violate that.

24 SUPERVISOR MAHAN: There are exceptions because  
25 there are stop signs in certain areas. There are

1 exceptions.

2 MS. MURPHY: I think Susan Milstein had a good  
3 suggestion in using the mitigation money just for that  
4 specific area.

5 MR. KELSEY: It's not a mitigation area; that's  
6 the problem.

7 SUPERVISOR MAHAN: It's not mitigation, but it  
8 is public benefit money. If you heard Joe Grasso that  
9 evening and you heard Pete Stuto, they have just  
10 different suggestions that were thrown out there. I  
11 heard them clearly. They were talking about the money  
12 for the public benefit would go to this area. That is a  
13 priority -- if there was anything left over or whatever.  
14 The reason Spring Street came up is only because in the  
15 past people from East Ridge and East Hills have asked  
16 for sidewalks to connect with where Siena is. It's not  
17 Siena asking for them, it was the residents there. They  
18 have sidewalks down on East Hills.

19 The other was Aviation Drive. That's because  
20 there are partial sidewalks that were put in when the  
21 Crisafullis put theirs in. That was part of a public  
22 benefit. So, wherever there are gaps in the  
23 connection, they come up as suggestions.

24 She maybe didn't hear that when they were  
25 saying it or maybe didn't understand it. Those were

1 the recommendations that were there so they just kept  
2 them all in there, just for transparency purposes that  
3 other people had recommended those. She maybe didn't  
4 hear what they said or whatever because it's pretty  
5 clear that whatever we can do in that area with the  
6 money, that's what will be done.

7 MS. MURPHY: It was interesting hearing what  
8 everybody thought would be an answer to what they want  
9 done. When they talk about people speeding through -  
10 it's a cut-through. Well, there is a million streets in  
11 the Town that are cut-through's and people speed on  
12 them.

13 SUPERVISOR MAHAN: There are. There are certain  
14 things like the right-hand turn that was put at  
15 Homestead and Route 9 when that was first put there. It  
16 was put there for a reason. It was a safety reason. So,  
17 there was a rationale for that.

18 When you look at Fiddlers and Comly and  
19 Homestead it's a very odd old fashion intersection  
20 that maybe does need stop signs there. They're not  
21 asking for stop signs every block like by Shaker Road  
22 Fire Department. They're not asking for that. They're  
23 asking where the points are where people come flying  
24 around and it's a dangerous situation.

25 As far as the ones that they talked about

1 that were put on Akyline and Laura down there, I don't  
2 know what they're talking about. I would have to go  
3 look. If they are there, we could find out if they are  
4 there. I just don't ever recall anyone ever talking  
5 about that. Skyline is a dead-end. Maybe you would  
6 have one at the bottom of the hill. I don't know. I  
7 don't know if there was ever one there from the  
8 beginning or not. They said that these were put in  
9 last year. They live there so they would notice that.

10 The project itself - - I don't know if you  
11 remember but Joe Grasso has been working with the  
12 developer on the changes that the Planning Board would  
13 like to see and things like that. They added more  
14 green space. I think the setback may be a little  
15 different.

16 MR. MAGGUILLI: They reduce the number of  
17 seats.

18 SUPERVISOR MAHAN: They reduce the number of  
19 seats in totality in the restaurant areas. Those were  
20 reduced. They were specified as to what number could go  
21 between all of them. I think at one time the apartments  
22 were reduced, too. There were a number of things that  
23 they did that the Planning Board wanted to see and they  
24 did those things.

25 MR. MAGGUILLI: What we tried to make clear to

1           them is what could go there. It is zone NCOR. If it is  
2           NCOR zoned, you can go all the way up to light  
3           manufacturing, commercial office buildings without any  
4           approval by the Town. It's something they can build as  
5           of right. We can get into the details, but if they  
6           wanted to put a light manufacturing plan and there, they  
7           don't need any waivers, they wouldn't need any  
8           variances.

9                     You don't want to get in the jackpot like we  
10           got in at Forts Ferry. The first proposal for Forts  
11           Ferry was much better for the neighbors than what they  
12           ended up with. It's hard to convince people of that  
13           fact. You try to lay it out for them,

14                    SUPERVISOR MAHAN: The senior housing was just  
15           the green space there - it would have been less impact  
16           than adding an office to it.

17                    MS. MURPHY: Absolutely. Well, if they were  
18           concerned about the traffic. They're is certainly going  
19           to be more traffic with an office building then there  
20           would be with senior housing.

21                    MR. MAGGUILLI: They could put two 40,000  
22           square foot office buildings there.

23                    MS. MURPHY: That's because they thought the  
24           senior housing was too big to begin with.

25                    SUPERVISOR MAHAN: When they rezoned in 2007

1 over the different areas, a lot of these different  
2 things came into play. If you could put the  
3 manufacturing building on a lot or you could put gas  
4 stations which is something totally different or  
5 whatever, there's a lot of stuff that's in that NCOR  
6 zone. It gets difficult.

7 MR. MAGGUILLI: I can get the Code and go  
8 through it with you if you like.

9 SUPERVISOR MAHAN: You look at the layout of  
10 New London Road and you see the investment that was made  
11 in all the other buildings that are beautiful there. It  
12 doesn't blend if you had fast food or convenience store  
13 or gas stations or even an office building would just  
14 bring peak traffic which is the last thing you want to  
15 have there. Sometimes it's trying to strike that  
16 balance. They did make a lot of modifications to the  
17 whole thing. So, it didn't get voted in last night.

18 MS. MURPHY: It's nice having the meetings here  
19 because - - it's probably not so nice for the Planning  
20 Board.

21 MR. MAGGUILLI: I got a letter about the  
22 Sycamore Motel. It was an anonymous letter. A gentleman  
23 complaining about a prostitution ring being run out of  
24 the motel. He was very specific about the times in the  
25 rooms. I was thinking: How does he know that? I turned

1           it over to the Police Department and they did an  
2           undercover and sure enough, they busted up a  
3           prostitution ring and got a couple of guns off the  
4           street. I think he sent the letter to me because he read  
5           the newspaper about the Sycamore.

6                    MS. MURPHY: I was just going to say that  
7           generally when the Planning Board finishes reviewing a  
8           project, they seem to be really handled well and try to  
9           accommodate as many residents as they can. They have to  
10          understand that people buy property and they can develop  
11          it,

12                   MR. MAGGUILLI: Pete Stuto always says that,  
13          but they have the right to develop it within the terms  
14          of the law. That's what he should be saying. There are  
15          restrictions.

16                    (Whereas the above entitled proceeding was  
17          concluded at 6:40 p.m.)

CERTIFICATION

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I, NANCY L. STRANG, Shorthand Reporter and  
Notary Public in and for the State of New York, hereby  
CERTIFY that the record taken by me at the time and  
place noted in the heading hereof is a true and  
accurate transcript of same, to the best of my ability  
and belief.

Dated: \_\_\_\_\_

NANCY L. STRANG  
LEGAL TRANSCRIPTION  
2420 TROY SCHENECTADY RD.  
NISKAYUNA, NY 12309